

or at least continuing it in force, until the defendants shall pay the said sum of \$13,256, with interest from the 8th of October, 1838. And shall also decree the payment of costs as against the canal company; but the plaintiffs must pay the costs of the officers of the corporation who were made defendants for the purpose of discovery. *Fulton Bank vs. N. Y. and Sharon Canal Company*, 4 Paige, 131.

[No appeal was taken from this decree.]

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EDWARD GREEN, TRUSTEE,  
 vs.  
 TRUE PUTNEY AND HUGH RIDDLE. } JULY TERM, 1848.

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[TRUSTEES, THEIR POWERS AND ALLOWANCES TO THEM.]

WHEN a trustee, appointed by this court to sell property and bring the proceeds in to be disposed of under its orders, disburses money without competent authority, he will be chargeable, as if the money was in hand.

This principle cannot be applied with the same rigor to a trustee acting under a deed, giving express authority to pay debts.

Nor, does the fact, that such a trustee applies to a court of equity for its direction and assistance in the execution of his trust, place him in the predicament of a trustee of the court's appointment, with powers limited and defined by the decree.

If such trustee thinks proper himself to disburse the fund, he cannot be called upon to bring it into court, unless the disposition which he has made of it is shown to be improper.

Where the trustee, by the terms of the deed creating the trust, was entitled to an allowance for costs and expenses attending its execution, such allowances, should the nature of the trust and the circumstances of the case require it, will embrace, even without an express provision, the expense of employing an attorney.

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[Edward Green, the trustee, under a deed from True Putney and Hugh Riddle, dated 29th of August, 1839, conveying to him a large amount of property, real and personal; also, transferring to him all debts and claims due them as partners, and evidences of debt of every description in trust for the benefit of